

1 IN THE UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MISSOURI
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA,)
5 Plaintiff,)Case No.
6 vs.)10-00025-01-CR-W-HFS
7 KHALID OUAZZANI,)
8 Defendant.)

9 TRANSCRIPT OF CHANGE OF PLEA HEARING

10 On Wednesday, May 19, 2010, the above-entitled
11 cause came on before the Honorable Howard F. Sachs, U.S.
12 District Judge, sitting in Kansas City, Missouri.

13
14 APPEARANCES

15 For the Plaintiff: MR. J. DANIEL STEWART
16 Assistant United States Attorney
17 Charles Evans Whittaker Courthouse
18 400 East Ninth Street, Floor 5
19 Kansas City, Missouri 64106
20 For the Defendant: MR. ROBIN D. FOWLER
21 Bath & Edmonds, P.A.
22 7944 Santa Fe Drive
23 Overland Park, Kansas 66204

24 Gayle M. Wambolt, RMR, CRR
25 U.S. Court Reporter, Room 7552
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WEDNESDAY, MAY 19, 2010

THE COURT: The court is in session for a reported waiver of indictment and a plea to an information and also in a pending case, a plea of guilty to two counts regarding bank fraud and money laundering. The case is United States of America v. Khalid Ouazzani.

Mr. Stewart will be lead counsel for the United States.

Mr. Fowler will be lead counsel for the defendant.

I would ask that the defendant and Mr. Fowler come forward.

The oath should be administered to Mr. Ouazzani.
KHALID OUAZZANI, being duly sworn, testified:

EXAMINATION BY THE COURT:

Q The papers that I have indicate that you were born in 1977. Would that be correct, Mr. Ouazzani?

A Yes, sir.

Q And how much education have you completed?

A Some college.

Q Can you give me in general some description of the employment experience, your general occupation?

A Mostly sales management.

Q Are you currently or have you recently been under the care of a physician or psychiatrist?

1 A No, sir.

2 Q Have you been hospitalized or treated for a narcotic
3 addiction?

4 A No, sir.

5 Q And are you presently on any medication affecting your
6 thought processes, or have you had any narcotic drugs in
7 the past 24 hours?

8 A No, sir.

9 THE COURT: You have counsel at this time. I
10 advise that you have a right to a lawyer, and that if
11 necessary a lawyer will be appointed to represent you.

12 We will deal first with the issue of the filing
13 of an information which is in addition to the present
14 indictment that is pending against you for bank fraud and
15 money laundering.

16 A copy of the information that the government
17 wishes to file is in front of me. It can only be filed
18 with your consent, so we need to have proceedings to
19 determine if you are willing to have the information filed
20 with your consent. And we need to have a sufficient
21 record indicating an understanding of your rights in
22 connection with that filing.

23 At some point in the proceeding if the
24 information is filed, there would be a right to have the
25 information read in open court, and I will have it read at

1 this time by Mr. Stewart for two reasons.

2 One, to deal with that portion of the proceeding
3 and also to make sure you understand what the charge
4 against you that the government wishes to file would be.

5 So, Mr. Stewart, you can -- I would ask you to
6 read the information at this time.

7 MR. STEWART: May it please the court.

8 The information reads, "The United States
9 attorney charges, one, at all times material to this
10 information Al-Qaida was, A, a designated terrorist
11 organization as that term is defined in 18 U.S.C. Section
12 2339B(g)(6), that is, an organization that was first
13 designated by the U.S. Secretary of State as a foreign
14 terrorist organization on October 8, 1999, and has been
15 redesignated as such on various dates;

16 "And, B, was an organization which had engaged
17 in and engages in terrorist activity as defined in Section
18 212(a)(3)(B) of the Immigration and Nationality Act and
19 which had engaged in and engages in terrorism as defined
20 in Section 140(d)(2) of the Foreign Relations
21 Authorization Act, Fiscal Years 1988 and 1989.

22 "Two, from at least in or about August 2007, up
23 to and including in or about February 2010, at Kansas City
24 in the Western District of Missouri, and elsewhere
25 defendant Khalid Ouazzani and others known and unknown did

1 knowingly conspire to provide, quote, material support or
2 resources, closed quote, as that term is defined in 18
3 U.S.C. Section 2339A(b) to Al-Qaida, Ouazzani and the
4 coconspirators knowing that Al-Qaida was a designated
5 terrorist organization and that Al-Qaida was an
6 organization which had engaged in and was engaging in
7 terrorist activity and terrorism; and there is
8 jurisdiction for this offense under 18 U.S.C. Section
9 2339B(d)(1), Sections A, D, and E, in that defendant
10 Ouazzani is a national of the United States as defined in
11 Section 101(a)(22) of the Immigration and Nationality Act,
12 8 U.S.C. Section 1101(a)(22); the offense occurred in
13 whole or in part within the United States; and the offense
14 occurred in and affected interstate or foreign commerce.

15 "Three, it was a part of the conspiracy that
16 Ouazzani and coconspirators would and did discuss various
17 specific ways they could support Al-Qaida, including
18 providing currency, advice, and assistance to Al-Qaida,
19 such assistance including fighting in Afghanistan, Iraq,
20 or Somalia at the request of Al-Qaida. In conducting
21 these discussions, Ouazzani and coconspirators, known and
22 unknown to the United States, would and did use various
23 methods and techniques to attempt to disguise their
24 communications in order to avoid detection by law
25 enforcement officials that they were providing various

1 types of support to Al-Qaida.

2 "Four, it was a further part of the conspiracy
3 that Ouazzani would and did personally provide over
4 \$23,000 in United States currency for the use and benefit
5 of Al-Qaida and would and did perform other tasks at the
6 request of and for the benefit of Al-Qaida.

7 "Overt acts, paragraph 5, in furtherance of the
8 conspiracy and to effect the illegal objects thereof,
9 Ouazzani committed and caused to be committed the
10 following overt acts, among others, in the Western
11 District of Missouri and elsewhere:

12 "A, in or about August 2007, Ouazzani agreed to
13 contribute approximately \$6,500 to Al-Qaida through a
14 coconspirator and caused the coconspirator to pay such
15 funds to Al-Qaida on behalf of Ouazzani.

16 "B, in or about November 2007, Ouazzani repaid
17 the coconspirator for the \$6,500 funds previously sent to
18 Al-Qaida through a wire transfer of funds from an account
19 of Ouazzani's at Bank of America, Kansas City, Missouri,
20 to an account of the coconspirator in United Arab
21 Emirates.

22 "C, in or about June or July 2008, Ouazzani
23 agreed to pay Al-Qaida a total of \$17,000 representing his
24 profits from the sale of real property in United Arab
25 Emirates owned by Ouazzani and a coconspirator, and

1 instructed the coconspirator to make such payment to
2 Al-Qaida on Ouazzani's behalf.

3 "D, in or about June 2008, Ouazzani swore an
4 oath of allegiance to Al-Qaida through a coconspirator.

5 "All in violation of Title 18, U.S. Code,
6 Sections 2339B(a)(1), (d)(1)(A), (d)(1)(D), and
7 (d)(1)(E)."

8 THE COURT: The sum of the language in the
9 proposed information may be fairly well understood by you,
10 but I would further advise that the prosecution would need
11 to prove at trial if there was a trial for this charge of
12 material support to a terrorist organization, that you
13 knowingly provided material support or resources to a
14 foreign terrorist organization or that you conspired to do
15 so, that is, agreed to do so, planned to do so, that you
16 knew that the organization Al-Qaida was a designated
17 terrorist organization or that it was engaged in terrorist
18 activities.

19 In order to have jurisdiction, there would need
20 to be a showing that you were either a national of the
21 United States or a permanent resident alien or that the
22 offense occurred in whole or in part within the United
23 States or that the offense occurred in or affecting
24 interstate or foreign commerce.

25 The term "terrorism" is defined in statute

1 meaning premeditated, politically motivated, violence
2 perpetrated against noncombatant targets by subnational
3 groups or clandestine agents.

4 Terrorist activity is defined as including
5 various activities that are unlawful under the laws of the
6 place where committed or which if they had been committed
7 in the United States would be unlawful under the laws of
8 the United States including a list of conduct such as
9 highjacking or sabotage of vehicles or aircraft, use of
10 biological agents or chemical agents or explosives or
11 dangerous devices with intent to endanger directly or
12 indirectly the safety of one or more individuals or to
13 cause substantial damage to property.

14 Unless counsel would ask that I give a further
15 explanation of the proposed information, I'll go on to the
16 issue of punishment which you need to keep in mind when a
17 decision is made as to whether you're willing to have this
18 information filed with your consent.

19 The maximum punishment under the statutes would
20 be a term of 15 years imprisonment, a fine not to exceed
21 \$250,000. There would be a period of supervised release
22 after imprisonment of not more than five years, and there
23 would be a \$100 mandatory special assessment. The
24 reference that I made to supervised release means that
25 after a release from imprisonment, there would be

1 supervision by a federal probation officer. One purpose
2 of that would be to get assurance that there was
3 compliance with what we call conditions of release. The
4 conditions of release cannot be fully explained at this
5 time because they would vary from individual to individual
6 and from offense to offense.

7 But for illustration the conditions of release
8 would always include a requirement that there be no
9 further law violation. If it was reported that there was
10 a violation of a condition of release, the court would
11 have to determine if the violation occurred, and if so,
12 the court could impose a second period of imprisonment as
13 punishment for the violation.

14 The second period, the maximum on the second
15 period of imprisonment is not in the papers before me. I
16 believe they would -- it would be three years for a
17 violation unless counsel advises me differently.

18 MR. FOWLER: Judge, I'm sorry. I think
19 that's accurate as for probably the bank fraud count.

20 I think the information on the 2339B count is a
21 three-year maximum term of supervised release. It's
22 probably irrelevant since the bank fraud has a maximum of
23 five. The plea agreement has three years. I think maybe
24 the caption is incorrect on the information.

25 THE COURT: All right. I'll accept that

1 correction because there are various issues as to various
2 periods of supervised release on the various counts.

3 I do advise that there's no credit given for
4 compliance with conditions of release which means that the
5 same punishment would be imposed if the violation occurred
6 after a good deal of compliance as would be imposed if the
7 violation occurred shortly after supervision began.

8 I also advise that the court could impose the
9 cost of imprisonment and the cost of supervision after
10 imprisonment on a defendant, but the decision on whether
11 to impose those costs depends largely on the ability to
12 pay.

13 Mr. Ouazzani, we're limiting ourselves to the
14 information because that's what has not yet been filed.

15 Do you understand the nature of the charge and
16 the maximum punishment under the law?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I have suggested that the
19 information can only be filed with your consent. Under
20 the Constitution you will have the right to have these
21 charges presented to a grand jury instead of having them
22 filed by government counsel. However, you can give up
23 your grand jury rights and consent to the filing by the
24 United States attorney. If you do not give up your right
25 to grand jury, the matter would be presented to a grand

1 jury and could only proceed against you if the grand jury
2 were to file charges in what's called an indictment. If
3 you decline to waive indictment, the government can
4 proceed with the grand jury.

5 I need to advise you further about a grand jury.
6 A grand jury is a body of persons appointed by the judges
7 for a number of months. Twenty-three are appointed to
8 serve as grand jurors. At least 16 must be present in
9 order for the grand jury to have a quorum to take action,
10 and at least 12 of the grand jurors must find there's
11 probable cause to believe that a person has committed a
12 crime before they can be indicted.

13 If you do give up your grand jury rights, your
14 right to an indictment, the case proceeds against you just
15 as though there had been an indictment.

16 Have you discussed the matter of giving up your
17 grand jury rights?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand the grand
20 jury rights or the right to indictment that I have
21 referred to?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Were there any threats or
24 promises made other than a plea agreement to cause you to
25 waive indictment?

1 THE DEFENDANT: No, sir.

2 THE COURT: And do you wish to give up your
3 grand jury rights, your right to an indictment?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. I have a waiver of
6 indictment form before me that has been signed, and I will
7 sign it also essentially as a witness. I would authorize
8 that the information be filed. I conclude that the waiver
9 of indictment is knowingly made and voluntarily made and
10 it is accepted. So the information that has previously
11 been read can now be filed.

12 We next need to deal with what's called an
13 arraignment. That is your decision on whether to plead
14 guilty or not guilty to the information, but we also have
15 under the plea agreement an anticipated plea to two of the
16 charges in the indictment. I need to review those charges
17 with you before taking the plea.

18 It's my understanding that we're dealing with
19 Count 11 which is referenced as bank fraud, Union Bank,
20 and Count 23 which is referred to as money laundering,
21 Union Bank funds charge.

22 Count 11, the bank fraud charge, has some
23 complexity. I'll touch on what would appear to me to be
24 the more significant portions or at least the portion that
25 would allow an understanding of the whole count if the

1 description of the charges should be supplemented either
2 on the information or on the indictment. I would invite
3 Mr. Stewart to at some point suggest a further
4 explanation.

5 But the substance of the bank fraud charge would
6 seem to be that on the 9th of October of 2006, that you,
7 Mr. Ouazzani, formed a Missouri Limited Liability Company
8 with an address at East Truman Road in this city called
9 Hafssa, LLC, and that that company was in the retail
10 business of buying and selling auto parts and used motor
11 vehicles; that in February of 2007 you filed a fictitious
12 name registration as Truman Used Auto Parts and did
13 business under that name, which is -- of course, that
14 portion of it is appropriate and not illegal; that between
15 March of 2007 and October of 2008, that you devised a
16 scheme to defraud Union Bank in Kansas City, Missouri,
17 which was an insured depository institution that is
18 insured by the Federal Deposit Insurance Corporation; that
19 the plan was to obtain funds by material false and
20 fraudulent pretenses and representations; that in April of
21 2007, you applied for a line of credit commercial loan
22 from Union Bank and submitted false and fraudulent
23 financial information; that the following
24 misrepresentations were made: That a copy of a 2005
25 federal personal income tax return was submitted to the

1 bank which substantially overstated the amount of income
2 as compared with the tax return that you actually filed
3 with the Internal Revenue Service.

4 It's further alleged that you made false
5 statements concerning the value of approximately nine
6 parcels of real estate purchased at tax foreclosure sales
7 and that you concealed the fact that you were married and
8 that there was a spousal interest in the real estate.

9 It's also alleged that you knowingly submitted a borrowing
10 base certificate dated the 17th of May of 2007,
11 overstating the amount of business inventory claiming that
12 it totaled over \$680,000 whereas the inventory was
13 substantially less than that amount; that as part of the
14 scheme to defraud Union Bank on about April 16th, 2007,
15 you caused the Union Bank to make a loan line of credit in
16 the amount of \$175,000 to the company for, quote, working
17 capital based on material false and fraudulent financial
18 information previously submitted.

19 It's alleged that you signed a promissory note
20 for the \$175,000 commercial loan line of credit and
21 represented that the company that I referred to had
22 regulatory licenses required to operate the businesses
23 whereas the -- and neither the company nor you had the
24 required licenses to sell used auto parts or motor
25 vehicles.

1 It's further alleged in this fraud count that
2 you made withdrawals of approximately \$181,000 and used
3 the proceeds for purposes other than working capital.
4 It's alleged that you diverted receipts, and funds were
5 not used to repay the Union Bank but rather for use and
6 benefit of yourself including issuing a check for \$10,000
7 to an individual at Atlantic Realty on March 17th, 2008
8 and a wire transfer of \$9,000 payable to the same
9 individual in Australia on October 14th, '08; and in
10 addition that you defaulted on payments resulting in a
11 loss of over \$174,000 and that the false information
12 previously referred to was made to induce the commercial
13 loan that has been referred to.

14 So that's the allegation of the bank fraud
15 charge essentially.

16 The money laundering charge includes an
17 allegation that on April 25th, 2007, you caused to be
18 withdrawn an advance of \$75,000 on the working capital
19 commercial loan line from Union Bank and caused those
20 funds to be deposited into an account of the company at
21 Union Bank in violation of a statute. That was April
22 25th.

23 On May 17th, 2007, you caused to be withdrawn an
24 advance of \$21,000 on the working capital customer loan
25 line of credit and caused the funds to be deposited in the

1 company's account at Union Bank in violation of the same
2 statute; that on April the 30th, 2007 -- from about April
3 30th, 2007 through May 21, 2007, you caused to be
4 withdrawn counter checks totaling \$115,000 payable to you
5 and two checks totaling \$60,000 drawn on the company
6 account at Union Bank payable to you and caused those
7 checks to be deposited in a Bank of America account.

8 On May the 23rd, 2007, you caused a wire
9 transfer of approximately \$112,830 from the Bank of
10 America to an account of New World Star Real Estate, Habib
11 Bank Limited, Dubai, United Arab Emirates, and the source
12 of the funds was the \$171,000 in advance on the Union Bank
13 working capital commercial loan line of credit.

14 And, further, that you on May the 23rd, 2007, in
15 this district, that you conducted a financial transaction,
16 a wire transfer of \$112,830 from a place in the United
17 States that is the Bank of America in Kansas City to a
18 place outside the United States, that is, the entity
19 previously identified, Dubai, United Arab Emirates,
20 knowing that the funds involved in the transaction
21 represented the proceeds of a form of unlawful activity
22 and knowing that the transaction was designed in whole or
23 in part to conceal or disguise the source, ownership of
24 the funds. That is bank fraud.

25 Now, I need to review with you further the

1 nature of these charges and the punishment under the law
2 for a violation. The bank fraud charge in Section 1344 of
3 Title 18 punishes persons who knowingly execute a scheme
4 or artifice to defraud a financial institution by means of
5 false or fraudulent pretenses. That's the first count
6 that I had referred to.

7 The money laundering charge is described in
8 Section 1956 in Title 18, punishing persons who knowingly
9 invest financial transactions with proceeds of form of
10 unlawful activity with intent to carry out the unlawful
11 activity or to conceal or disguise the nature of the
12 ownership or specified financial -- unlawful activity.
13 The bank fraud charge, if established by proof at trial or
14 by a plea of guilty, could result in a prison term of up
15 to 30 years, a fine of up to \$1 million, a period of
16 supervised release of not more than five years, and there
17 would be an order of restitution for any loss that has
18 occurred.

19 The money laundering count could result in a
20 term of imprisonment of not more than 20 years, a fine of
21 up to \$500,000, a term of supervised release be not more
22 than three years, and there would be a \$100 mandatory
23 special assessment on each of the counts. That is on each
24 of the counts that I've referred to in the indictment and
25 also on the information.

1 Now, the punishment could be imposed to run
2 concurrently or to run consecutively. The court would
3 have authority to impose consecutive sentences on both the
4 information charged and the two counts of bank fraud and
5 money laundering that I have referred to.

6 I've already discussed with you the issues of
7 supervised release and punishment for a violation. What
8 I've said concerning that with the information would apply
9 also with the two counts on the indictment.

10 Mr. Ouazzani, do you understand the charges
11 against you in the bank fraud charge that is Count 11?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And do you understand the charges
14 against you in Count 23 in the money laundering charge?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And do you understand the maximum
17 punishment that I've explained to you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I might suggest that if anyone
20 gets tired during the course of this session, you can ask
21 for a brief recess.

22 I need to review with you, Mr. Ouazzani, your
23 procedural rights. I have referred to your right to
24 counsel. I remind you of that. There's a right to plead
25 not guilty to the information and to the two counts of the

1 indictment that I have referred to and persist in that
2 count.

3 If you did plead not guilty, there would be a
4 trial. It would be a jury trial. There would be the
5 right to hear witnesses against you in the courtroom, the
6 right to have the witnesses questioned by your attorney.
7 You would have what is referred to as privilege against
8 self-incrimination at a trial. That means that you would
9 not be compelled to testify unless you chose to do so.

10 If you did not testify, then the prosecution
11 would not be permitted to make any argument to the jury or
12 comment to the jury that they should in some way hold it
13 against you that you did not testify, find you guilty
14 because you did not testify. If you wish to be a witness,
15 you could be a witness. You could also call witnesses to
16 testify on your behalf.

17 At a trial you would be presumed to be innocent
18 of the charges, which means that the government would be
19 required to present sound legal evidence establishing
20 guilt and would be required to satisfy the jury beyond a
21 reasonable doubt on each of the three charges that we have
22 been referring to before there could be a conviction.

23 That jury would consist of 12 persons. They
24 would all have to agree on guilt before there could be a
25 conviction. If the jury was unable to agree, there could

1 be another trial, but there could be no conviction without
2 a unanimous decision by all 12 members of the jury.

3 In the event of a trial and a conviction, there
4 would be the right to appeal through another court, and
5 that court, a panel of three judges, would be available to
6 review the proceedings to be sure that there had been
7 essentially a fair trial and that there was enough
8 evidence to allow a verdict of guilty.

9 In the event of a pleading of guilty that's
10 accepted by the court, there would be no trial, and by
11 that plea you would be giving up the trial rights that I
12 have been reviewing with you and also a right to appeal
13 from the finding of guilt.

14 Do you understand the procedural rights I've
15 been reviewing with you?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Next we'll talk about the
18 questioning process. I cannot just accept a defendant's
19 statement that a defendant is guilty of certain charges.
20 I have to find before entering that plea that there is a
21 factual basis for acceptance of the plea.

22 In order to do that, generally it's handled by
23 questions to a defendant about the offense. I do remind
24 you that because of the privilege against
25 self-incrimination, there is no legal duty to respond to

1 the questions about the offense. You can make essentially
2 a confession in the courtroom if you choose to do so.

3 But it is your choice.

4 I do remind you that you are under oath and that
5 the answers you give could be used against you in a
6 prosecution for perjury for making a false statement. Do
7 you understand the questioning process?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, I have referred at times to
10 a plea agreement, which I have seen. We need to have a
11 record showing an understanding of that agreement which
12 runs to 21 pages. We do not need a line-by-line review of
13 the agreement, but I would ask the lawyers, either one
14 side or the other, to describe what you consider to be the
15 main points in the plea agreement.

16 Mr. Stewart.

17 MR. STEWART: Yes, Your Honor. The agreement
18 references the anticipated pleas of guilty to the three
19 counts discussed in court, and there's a factual basis for
20 the guilty plea, which Mr. Fowler I believe is going to
21 question Mr. Ouazzani about in more detail.

22 There's a reference to the statutory penalties
23 that are provided by statute.

24 Paragraph 7 refers to the government's
25 agreements. Those are that the government agrees not to

1 bring any additional charges against the defendant or any
2 federal criminal offenses related to the crimes charged in
3 the indictment or information, and the government would
4 dismiss the remaining counts of the indictment at the time
5 of sentencing.

6 There are provisions about the preparation of
7 the presentence report.

8 Paragraph 10 refers to the guideline's
9 applications, and there is a detailed recitation of what
10 is the government's anticipated sentencing guidelines for
11 the court to consider in making the final determination.
12 The introduction of that states that the government
13 submits but defendant may not agree as follows, and the
14 details relating to the guidelines for bank fraud and
15 money laundering and the material support to a designated
16 terrorist organization are set forth in some detail there.
17 I will not go through those.

18 While the defendant reserves the right to --
19 doesn't stipulate to them, Mr. Fowler has indicated that
20 he's in significant agreement with most of the guidelines
21 but wanted to reserve his rights to contest, if necessary,
22 certain portions of them.

23 Is that correct, Mr. Fowler?

24 MR. FOWLER: It is, Your Honor.

25 MR. STEWART: There are some other matters,

1 including the rights that the court has just gone through,
2 the trial rights. Paragraph 15 refers to the waiver of
3 appellate rights by the defendant in some detail, that he
4 agrees to waive his -- any right to appeal a finding of
5 guilt. He does retain the right to appeal any sentencing
6 guideline issues that have not been agreed upon by the
7 parties.

8 There are certain provisions relating to
9 financial obligations and a number of provisions relating
10 to waiver of Freedom of Information Act rights, claims for
11 attorney fees, biological evidence, and so forth. There
12 are provisions then on -- for each of the -- if there is a
13 breach of the plea agreement, what happens.

14 I think in substance that's what the plea
15 agreement provides.

16 THE COURT: Mr. Fowler, is there anything
17 that has been said about the plea agreement that you
18 disagree with, or is there anything that has not been
19 mentioned?

20 MR. FOWLER: No, Your Honor. I think that's
21 accurate.

22 THE COURT: Mr. Ouazzani, before signing the
23 plea agreement, did you review it carefully with your
24 attorney?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And having done that and having
2 heard the description in the courtroom, are you satisfied
3 you do understand the agreement?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: The record should reflect I have
6 not participated in negotiations leading to the agreement,
7 and I will follow my standard practice of accepting the
8 agreement conditionally, that is, subject to further
9 consideration when I receive a presentence report. If I
10 should reject the agreement for some reason, which would
11 be very unusual, I would afford the defendant an
12 opportunity to withdraw his plea and to ask for a trial.

13 That would be extremely unusual, but I mention
14 it simply to indicate that if despite the proceedings
15 today there were to be a trial, nothing said today could
16 be used to prove the charges brought by the government.

17 Having made that reference to a possible
18 withdrawal of the plea, I want the defendant to understand
19 that other than a rejection of the plea agreement, it
20 should be considered almost impossible to obtain the
21 court's approval of a withdrawal of a guilty plea once
22 it's been offered to the court and accepted.

23 Now, I'll ask what I suppose are the most
24 important questions of the proceeding.

25 On the information that has been filed and

1 that's been described here, how do you wish to plead,
2 guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: Okay. On the Count 11 of the
5 indictment that is the bank fraud charge, how do you wish
6 to plead, guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: And on the money laundering
9 charge, Count 23, how do you wish to plead, guilty or not
10 guilty?

11 THE DEFENDANT: Guilty.

12 THE COURT: Mr. Fowler, are you satisfied
13 that the defendant is competent to enter a plea?

14 MR. FOWLER: Yes, Your Honor.

15 THE COURT: I would suppose that there are
16 some sensitive issues here in the government's
17 investigation, but, Mr. Fowler, are you satisfied that you
18 have sufficient information from the government's
19 investigative file and from your own investigation to
20 recommend the plea?

21 MR. FOWLER: Yes, Your Honor.

22 THE COURT: Mr. Ouazzani, have you conferred
23 with your attorney as much as you believe you need to to
24 enter into a plea?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you satisfied with the way
2 he's handled this case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you understood the
5 proceedings so far?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: It's been an unusually long
8 proceeding. If there is something that you have some
9 doubts about, you can ask for an opportunity to talk to
10 your attorney further.

11 Are you ready to proceed?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Was there any physical force used
14 to cause you to enter into a plea agreement or plead
15 guilty?

16 THE DEFENDANT: No, sir.

17 THE COURT: Were there any threats made
18 causing you to enter into the agreement or to plead
19 guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: Were there any promises that have
22 been made other than promises in writing that cause you to
23 plead guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: At this point we do need to have
26

1 a factual basis. I recognize that a rather lengthy
2 factual basis has been set forth in the plea agreement in
3 paragraph 3 and signed by the defendant, but I would ask
4 counsel to make a further record while the defendant is
5 before me.

6 I should remind the defendant that he has no
7 obligation to answer questions about the offense but is,
8 of course, free to do so if he chooses to do so after
9 consulting with counsel. But I would ask you -- either
10 side to help me out with any kind of supplement of the
11 factual statement in the plea agreement.

12 MR. FOWLER: Certainly, Your Honor.

13 EXAMINATION BY MR. FOWLER:

14 Q Mr. Ouazzani, you understand that you are the
15 defendant in this case, both in the indictment that's been
16 referenced and in the information that's been referenced
17 here today? Do you understand that?

18 A Yes, sir.

19 Q And you understand that at this time you are under
20 oath and answering questions so the court can make certain
21 there's a factual basis that you are guilty of these three
22 offenses?

23 A Yes, sir.

24 Q And you speak, understand, and read English; is that
25 correct?

1 A Yes, sir.

2 Q And you have reviewed the indictment prior to today in
3 detail both with me and on other occasions, correct?

4 A Yes, sir.

5 Q And specifically as the court went through Counts 11
6 and 23 of the indictment today, you followed along very
7 closely regarding everything the court said; is that
8 correct?

9 A Yes, sir.

10 Q And you also were present in court -- well, prior to
11 today, you and I have gone through the information that
12 was filed here today in detail, correct?

13 A Yes, sir.

14 Q And you obviously were present in court when
15 Mr. Stewart read that into the record today; is that true?

16 A Yes, sir.

17 Q And you understand the charges both in the information
18 and the indictment?

19 A Yes, sir.

20 Q Specifically regarding the indictment -- well, and you
21 also have signed a plea agreement which the court has
22 referenced here today, correct?

23 A Yes, sir.

24 Q And the court made reference to it, but there is a
25 detailed factual basis for the pleas to all three counts,

1 which begins on page 2 and runs through page 6 of the plea
2 agreement, correct?

3 A Yes, sir.

4 Q And you and I have reviewed those prior to today on
5 several occasions, correct?

6 A Yes, sir.

7 Q And you understand that those facts -- you agree that
8 those facts are accurate?

9 A Yes, sir.

10 Q Specifically going through those regarding Count 11,
11 you agree that in April of '07, 2007, you obtained a
12 \$175,000 loan from Union Bank as a line of credit for your
13 business Hafssa, correct?

14 A Yes, sir.

15 Q And that business was doing business as Truman Auto
16 Parts, correct?

17 A Yes.

18 Q And that business was -- it was a retail business in
19 the business of buying and selling used auto parts,
20 correct?

21 A Yes, sir.

22 Q And using that business, you obtained a loan for
23 working capital for that business, correct?

24 A Yes, sir.

25 Q And to obtain that loan, you provided false financial

1 information about both yourself, your assets, and that
2 company to obtain the loan; is that true?

3 A Yes, sir.

4 Q And those false -- that false information included a
5 false 2005 federal income tax submission which overstated
6 your income; is that true?

7 A Yes, sir.

8 Q And there was information about several parcels of
9 real estate, and that appraisal was falsely inflated as
10 well; is that correct?

11 A Yes, sir.

12 Q And the purpose of the loan was supposed to be for
13 working capital for your business; is that correct?

14 A Yes, sir.

15 Q And in addition you also overstated the inventory that
16 Hafssa actually had on hand; is that correct?

17 A Yes, sir.

18 Q And in spite of the fact that the proceeds -- well, in
19 spite of the fact that you were supposed to use the
20 working proceeds or the proceeds for working capital for
21 your business, you used it for other personal purposes; is
22 that correct?

23 A Yes, sir.

24 Q And you transferred approximately \$165,000 in the
25 amounts listed in the indictment to the Bank of America;

1 is that correct?

2 A Yes, sir.

3 Q And you took funds from the Bank of America and you
4 used those to purchase an apartment overseas in addition
5 to other reasons, correct?

6 A Yes, sir.

7 Q And that was not part of the business that you had
8 obtained the loan, correct?

9 A Yes, sir.

10 Q Regarding Count 23, in May of 2007, you caused a wire
11 transfer from the account of Bank of America to an
12 overseas account; is that correct?

13 A Yes, sir.

14 Q And these were the funds that you had originally
15 obtained from Union Bank with the false submissions that
16 you described earlier, correct?

17 A Yes, sir.

18 Q And by utilizing the Bank of America account and
19 sending the money overseas, that made it more difficult to
20 trace those funds; is that correct?

21 A Yes, sir.

22 Q And as we've discussed, those proceeds were used not
23 for your business but to purchase an apartment overseas in
24 addition to other purposes, correct?

25 A Yes, sir.

1 Q Moving on to Count I of the information, material
2 support, you are a naturalized citizen of the United
3 States; is that correct?

4 A Yes, sir.

5 Q And you are aware that Al-Qaida is a foreign terrorist
6 organization; is that true?

7 A Yes, sir.

8 Q And you heard the court recite the definition of what
9 a foreign terrorist organization is and you understood
10 that Al-Qaida had been designated by the United States as
11 a terrorist organization in years prior to the time period
12 discussed in these charges, correct?

13 A Yes, sir.

14 Q And you knew the nature and organization of Al-Qaida
15 in the sense that you knew it had committed acts of
16 terrorism over the years; is that true?

17 A Yes, sir.

18 Q And during the time period in the information, you
19 discussed with others ways to support Al-Qaida; is that
20 correct?

21 A Yes, sir.

22 Q And one of the ways you agreed to support Al-Qaida was
23 you provided, as detailed in the factual basis and in the
24 information, over \$23,000 in United States currency for
25 the benefit and use of Al-Qaida; is that correct?

1 A Yes, sir.

2 Q And you discussed among others how to perform tasks at
3 the request and for the benefit of Al-Qaida; is that
4 correct?

5 A Yes, sir.

6 Q And many of the conversations and communications you
7 had with others were conducted covertly to avoid detection
8 by law enforcement or others; is that true?

9 A Yes, sir.

10 Q And specifically regarding the \$23,000, in August of
11 2007, you agreed to contribute approximately \$6,500 to
12 Al-Qaida through another individual; is that correct?

13 A Yes, sir.

14 Q And you later repaid that same individual that \$6,500
15 in funds, correct?

16 A Yes, sir.

17 Q And in approximately June or July of 2008, you agreed
18 to provide and did provide a further \$17,000 for the
19 benefit of Al-Qaida; is that correct?

20 A Yes, sir.

21 Q And in June of 2008, you agreed and swore to another
22 individual your intent and desire to join Al-Qaida; is
23 that correct?

24 A Yes, sir.

25 Q And regarding the bank fraud and the money laundering

1 counts, those occurred -- the acts that we've discussed
2 occurred in the Western District of Missouri during the
3 time periods named in the charges, correct?

4 A Yes, sir.

5 Q As to the information and the acts discussed in that
6 information, some of those acts would have occurred in the
7 Western District of Missouri but some of those acts would
8 have occurred in other locations; is that correct?

9 A Yes, sir.

10 Q And you agreed as a part of the discussions regarding
11 your support of Al-Qaida with other individuals, to
12 further the purposes of Al-Qaida; is that correct?

13 A Yes, sir.

14 MR. FOWLER: Your Honor, I think that covers
15 the elements pretty thoroughly and probably beyond. If
16 the court has other areas of inquiry, I'd sure try to
17 address those.

18 THE COURT: Well --

19 MR. STEWART: Your Honor, may I have just a
20 moment?

21 THE COURT: Yes. Mr. Stewart, are there some
22 additional questions or some issues that you want to take
23 up?

24 MR. STEWART: Not concerning the factual
25 basis, but Mr. Casey reminded me that part of the plea

1 agreement references in the written plea agreement
2 Mr. Ouazzani's agreement to cooperate with forfeiture
3 proceedings. I didn't mention that specifically.

4 THE COURT: All right. If you want -- if
5 questions should be asked of the defendant.

6 MR. FOWLER: We would acknowledge there are
7 forfeiture provisions in the plea agreement. We've
8 discussed those and agreed to them. I think that's
9 separate from the factual basis for the plea, but
10 certainly we acknowledge that.

11 MR. STEWART: Right.

12 THE COURT: Okay. Any other loose ends,
13 Mr. Stewart, that you think we ought to have covered?

14 MR. STEWART: We've covered everything. No,
15 that's just one small point that was in the plea agreement
16 that was not covered in open court that I wanted to put on
17 the record.

18 THE COURT: All right. I might mention there
19 seems to be some, I take it, public interest in the
20 proceeding that while, as one might suppose, there are
21 probably a number of confidential matters not known to me
22 either but somewhat unusually the plea agreement itself is
23 not under seal, and the factual basis, I think it's been
24 pretty well covered by Mr. Fowler.

25 But there is a -- in paragraph 3 of the plea

1 agreement there is some specification of the factual basis
2 that I take it is available for anyone that wants to check
3 it out for purposes of accuracy.

4 Based on the record before me and what I have
5 from both counsel and the defendant, I do accept the plea
6 of guilty as to the information and the plea of guilty as
7 to the bank fraud count that is 11 of the indictment and
8 the money laundering count, 23, of the indictment.

9 I accept those three pleas and direct that they
10 be entered in the record. I find that the pleas have been
11 voluntarily made and that there is a factual basis for
12 acceptance and the defendant understands the consequences
13 of the plea.

14 A presentence investigation is ordered. A draft
15 of the report will be made available for examination by
16 both sides. Both sides will have an opportunity to ask
17 for changes in the report. When there is as much
18 agreement as possible, the report will be prepared in
19 final form and submitted to the court at which time a
20 sentencing proceeding can be scheduled.

21 The defendant is apparently in custody and will
22 remain in custody until further order of the court.

23 If there is nothing further to take up with me
24 in the case today, court will be adjourned.

25 * * * * *

REPORTER'S CERTIFICATE

I certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter.

Date

Registered Merit Reporter